

REMARKS

In the Office Action mailed June 4, 2004, Claims 1-8 are held subject to a restriction requirement, the Examiner contending that the claims are directed to more than one invention as follows:

- Group I – Claims 1-6, which the Examiner contends are directed to a catalyst composition;
- Group II – Claim 7, which the Examiner contends is directed to a polymerization process; and
- Group III – Claim 8, which the Examiner contends is directed to a polyether polyol.

Applicants herein confirm the election made without traverse by their undersigned attorney to prosecute the claims of Group I (Claims 1-6), and therefore cancel Claims 7 and 8. Applicants reserve the right to file one or more divisional applications directed to the non-elected subject matter.

Applicants confirm the substance of the Interview Summary form PTOL-413 provided with the instant Office Action regarding the interview conducted between Examiner Wood and the undersigned attorney.

In the Office Action mailed June 4, 2004, Claims 1-6 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,028,230 issued to Le-Khac, EP 1,146,062 in the name of Fuji et al., CA 2,390,126 in the name of Steinlein et al., or WO 01/04179 in the name of Clement et al.

Applicants confirm the correctness of the Examiner's presumption at page 5 of the instant Office Action regarding ownership of the presently claimed subject matter.

Rejections under 35 U.S.C. §103(a)

Claims 1-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,028,230 issued to Le-Khac, EP 1,146,062 in the name of Fuji et al., CA 2,390,126 in the name of Steinlein et al., or WO 01/04179 in the name of Clement et al. Applicants respectfully disagree with the Examiner's contention regarding the cited art.

Le-Khac is relied upon by the Examiner to teach compositions the Examiner considers to overlap those instantly claimed. Applicants agree with the Examiner that Le-Khac teaches metal fluorides as protic Lewis acids, although metal fluorides are not included in the examples. Applicants note that the Examiner has failed to point to where Le-Khac teaches or suggests fluorine-containing complexing ligands as are instantly claimed. Clement et al. teach alkoxylation of initiators, some of which can be fluorinated compounds at page 3, not the inclusion of fluorine-containing complexing ligands as are instantly claimed. As to CA 2,390,126 in the name of Steinlein et al. and EP 1,146,062 in the name of Fuji et al., the Examiner has failed to point to where those references teach or suggest fluorine-containing complexing ligands as are instantly claimed.

Therefore, applicants contend that nothing in the teaching of the cited art would lead one of ordinary skill in the art to the instantly claimed invention and respectfully request the Examiner reconsider and reverse her rejection of Claims 1-6 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,028,230 issued to Le-Khac, EP 1,146,062 in the name of Fuji et al., CA 2,390,126 in the name of Steinlein et al., or WO 01/04179 in the name of Clement et al.

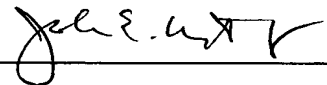
CONCLUSION

Applicants have cancelled Claims 7 and 8 and have added Claims 9-14. Such amendment is to be construed as "truly cosmetic" and is not believed to narrow the scope of the claims or raise an estoppel within the meaning of *Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd., et al.*, 535 U.S. 722 (2002). Applicants also contend that such claim amendments add no new matter and find support in the specification.

Applicants submit that the instant application is in condition for allowance. Accordingly, reconsideration and a Notice of Allowance are respectfully requested for Claims 1-6 and 9-14. If the Examiner is of the opinion that the instant application is in condition for other than allowance, she is invited to contact the applicants' Attorney at the telephone number listed below, so that additional changes to the claims may be discussed.

Respectfully submitted,

By


John E. Mrozinski, Jr.
Attorney for Applicants
Reg. No. 46,179

Bayer MaterialScience LLC
100 Bayer Road
Pittsburgh, PA 15205-9741
412-777-3024
FACSIMILE PHONE NUMBER:
412-777-3902
jdg/mrozinski/jem18